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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

LUMOS, INC., a Utah corporation,

Plaintiff,

v.

MISTER DUMPSTER, INC., a Utah
corporation d/b/a MR. DUMPSTER,
JESSE GETTLER, an individual, ROBERT
BISHOP, an individual,

Defendant.

**CONSENT JUDGMENT OF
INFRINGEMENT, UNFAIR
COMPETITION, DECEPTIVE
TRADE PRACTICE, AND ORDER
OF PERMANENT INJUNCTION**

Civil Action No. 2:13-cv-00882-DAK

Honorable Judge Kimball

WHEREAS Plaintiff LUMOS, INC. (“Lumos”) and JESSE GETTLER, an individual (“Gettler”), have agreed to settlement of the matter in issue between them and to entry of consent judgment of infringement, unfair competition, deceptive trade practice, and order for permanent injunction, it is ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Plaintiff Lumos is a Utah corporation having its principal place of business in Orem, Utah.
2. Defendant Gettler is a Utah resident residing in Lehi, Utah.
3. Lumos is the exclusive owner of the mark “KT TAPE”, which is registered with the USPTO under registration number 77,574,227 (the “Mark”).
4. In 2013, Lumos hired Mister Dumpster, Inc. d/b/a Mr. Dumpster (“Mr. Dumpster”) to dispose of nearly 13,000 rolls of KT Tape brand kinesiology tape (“Discarded Tape”). Rather than dispose of the Discarded Tape, Mr. Dumpster allowed Gettler to remove the Discarded Tape from its dumpsters.
5. Without Lumos’s knowledge or authorization, Gettler began selling the Discarded Tape through various online retailers such as amazon.com and ebay.com (the “Unauthorized Sales”).
6. Without Lumos’s knowledge or permission, Gettler used the Mark to advertise and facilitate his Unauthorized Sales of Discarded Tape.
7. Gettler’s use of the Mark in connection with his Unauthorized Sales is likely to cause confusion among consumers.
8. Lumos filed a complaint in United States District Court for the District of Utah, Case No.: 2:13-cv-00882-DAK, against Gettler for: trademark infringement of the Mark; State Law Unfair Competition in violation of Utah Code Ann. § 13-5a-102(4); and Deceptive Trade

Practices in violation of Utah Code Ann. §13-11a-1, *et seq.* and to enjoin Gettler from any further unauthorized use of the Mark.

9. Gettler has stipulated to the entry of consent judgment as to trademark infringement, unfair competition under Utah Code Ann. § 13-5a-102(4), and deceptive trade practice under Utah Code Ann. §13-11a-1, *et seq.*

STIPULATION

To resolve the dispute by settlement and agreement, without the necessity of extensive litigation and the expenses and inconveniences incident thereto, Lumos and Gettler have agreed to enter into a settlement agreement, wherein Gettler agrees to cease all use of the Mark and to cease all sales of the Discarded Tape and any genuine, authorized Lumos products. Gettler also agrees to return any remaining rolls of Discarded Tape in his possession to Lumos. Gettler further stipulates to the dismissal of all of his counterclaims against Lumos with prejudice.

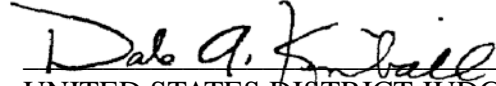
Lumos and Gettler have agreed that this Court retain subject matter jurisdiction, and personal jurisdiction over Gettler, to enforce the Consent Judgment and Permanent Injunction.

ORDER

It is hereby ordered that Gettler's counterclaims are dismissed with prejudice. Pursuant to Section 34(a) of the Lanham Act, 15 U.S.C. § 1116(a), and Utah Code Ann. § 13-11a-4(2)(a), Gettler, his agents, officers, servants, employees, and all persons in active concert and participation with them who receive actual notice of this Order by personal service or otherwise ("Enjoined Parties"), are hereby permanently enjoined from all use of the Mark. The Enjoined Parties are further permanently enjoined from selling the Discarded Tape and any genuine, authorized Lumos products. Nothing herein precludes Mr. Gettler from working for a company that distributes or sells Lumos products.

IT IS SO ORDERED.

Dated: October 19, 2015


UNITED STATES DISTRICT JUDGE